

PART 1942 - ASSOCIATIONS

SUBPART C - FIRE AND RESCUE LOANS

- I. Purpose. This instruction supplements RD Instruction 1942-C, Subpart C, Sections 1942.105, 1942.107, 1942.108, 1942.123, and 1942.126 for processing and closing fire and rescue loans.
- II. Application Checklist. In order to be consistent throughout the State, Exhibit A, Fire and Rescue Application Checklist, will be used to request documentation from applicants.
- III. Section 1942.104(a) - Application Processing. This paragraph is supplemented to provide a uniform application processing checklist for fire and rescue loans. Guide 3 of Virginia Instruction 1942-A will be used as the official Virginia checklist for fire and rescue loans. The checklist in the Area Office file will be filed in Position 1 and will be kept current by Area Office personnel as processing advances.
- IV. Section 1942.105 - Environmental Review. All environmental assessments will be completed by the Area Office as early as possible and submitted to the State Office for review and execution by the CF Specialist and the Environmental Coordinator.
- V. Section 1942.107(b) - Priorities. Guide 26 of 1942-A, Part 1, must be developed by the Area Director for each application.
- VI. Section 1942.108 - Application Docket Preparation and Review
 - A. Section 1942.108(d) - Letter of Conditions. The Area Director should prepare a draft letter of conditions in accordance with Section 1942.5(a)(1) and (c) of Subpart A of Part 1942 of this Chapter and Virginia Instruction 1942-C, Exhibit B. This draft must be forwarded to the State Director for review and concurrence prior to its issuance to the applicant.
 - B. Section 1942.108(e) - Organizational Review. For all initial applications and/or organizations which there may be questions, the organizational documents (charter, by-laws, certificate of incorporation) must be forwarded to the State Director for review and OGC comments as early as possible in the application process. OGC comments must be received before obligation of funds.
 - C. Section 1942.108(g) - State Office Review. The Area Director must submit the entire completed docket along with the draft of the letter of conditions for State Office review and monitoring purposes prior to the delivery of the letter of conditions. All application documents, including the completed Project Summary, Fund Analysis, and Operating Budget, must be submitted.

VII. Section 1942.123(c) - Loan Closing - Organizations Other Than Public Bodies and Indian Tribes

- A. Loans to organizations other than Public Bodies and Indian Tribes may be closed by the Area Director in accordance with the Standard OGC Closing Guidelines as set forth in VA Instruction 1942-A, Exhibit D, and in accordance with closing instructions issued by the State Office. Exhibit C of this instruction should be attached to the Financing Statements as appropriate.
- B. All completed dockets will be submitted to the State Office for issuance of closing instructions.
- C. All dockets will be properly and quickly assembled following closing and forwarded to the State Office for post closing review.
- D. Grant Agreement - In the event a grant is also to be made to the applicant, the grant may be closed in accordance with RD Instruction 3570-B, provided that these closing instructions have also been complied with and duly authorized officials of the applicant have fully executed Form RD 3570-3, Agreement for Administrative Requirements for Community Facilities Grants.

VIII. Section 1942.126 - Planning, Bidding, Contracting, Constructing, Procuring

- A. Section 1942.126(b)(2) - Final Reports. Final plans and specifications for fire and rescue structures will be submitted to the State Office for review and approval by the State Engineer/Architect prior to bidding or the start of negotiations for proposals. Preliminary plans should be provided for review when possible prior to final plan development.
- B. Section 1942.126(h) - Procurement Methods. Applicants must be advised early in the application phase of loan processing to use procurement methods acceptable to the agency and as required by RD Instruction 1942.126(h). An information sheet (Guide 1) outlines the step-by-step process for the most common procurement methods other than the competitive bid method. Guide 2 and Guide 3 may be used for developing request for proposals when procurement is accomplished by the competitive negotiation method.

COMMUNITY FACILITIES
FIRE AND RESCUE APPLICATION CHECKLIST

Agency regulations require certain data to be presented in order to determine applicant eligibility. In order for us to be more responsive to your request and in order for us to provide you with additional information on possible Rural Development funding, we request the following checked items be provided with your application. (Unless noted otherwise, please provide two copies.) If your concern is only related to your eligibility, you need only supply items 1, 8, 9, and 14. The forms and guides listed below are available on the indicated web site. If you do not have internet access, please contact our office and we will provide these forms and guides.

1. SF 424, Application for Federal Assistance
<http://www.aphis.usda.gov:80/mps/library/forms/forms.html> (Click on "Standard Forms")
2. Intergovernmental Review comments from local Planning District Commission
3. Feasibility Study using Guide 5 OR Form RD 1942-54 (Omit if included in item 4.)
For Guide 5: <http://rdinit.usda.gov/regs/> (Click on "Instructions," "Part 1942," "1942-A - Exhibits")
For Form 1942-54: <http://rdinit.usda.gov/regs/formtoc.html> (Click on "Series 1900 forms")
4. Preliminary Architectural/Engineering Report (Guide 6) <http://rdinit.usda.gov/regs/>
(Click on "Instructions," "Part 1942," "1942-A - Exhibits")
5. Copies of outstanding debt instruments (copies of notes, Deeds of Trust, bonds, financing statements/security agreements, and leases, etc.)
6. Form RD 442-3, Balance Sheet [current] <http://rdinit.usda.gov/regs/formtoc.html>
(Click on "Series 1900 forms")
7. Form RD 1940-20, Request for Environmental Information
<http://rdinit.usda.gov/regs/formtoc.html> (Click on "Series 1900 forms")
8. Copy of Charter and By-Laws (certified as true and correct)
9. Articles of Incorporation
10. Certificate of Incorporation
11. Statement from State Historical Preservation Officer concerning historical sites and archaeological properties
12. Financial Reports for the previous five years - The financial reports must contain enough information to disclose the net worth, net income, and gross expenses for the past five years.
13. Brief statement describing (a) how the facility will be operated, (b) the service area [attach maps], and (c) sources of income
14. Statement regarding efforts to finance your project/ facility through other sources
15. Legal Services Agreement
16. Agreement for Architectural/Engineering Services
17. Projected operating budget for the facility [identify income sources and expense items] using Form RD 1942-7, Initial Operating Budget, OR Form RD 1942-52, Cash Flow Projection <http://rdinit.usda.gov/regs/formtoc.html> (Click on "Series 1900 forms")

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If you need further assistance, please feel free to write or call the person(s) listed below. Your contact person(s) is:

(Name and Title)

(Address)

(Telephone)

Please note that items 2 and 11 require copies of the application and a description of the project [detailing its exact nature, its location(s), etc.] to be sent to the following address:

Item 2: Insert name and address of appropriate Planning District Commission

Item 11: Archaeological properties and historical sites:

Division of Historic Landmarks
221 Governor Street
Richmond, Virginia 23219
Telephone: (804) 786-3144

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(Fire and Rescue LOC)**

Dear _____

This letter, with Attachments 1 through 3, establishes conditions which must be understood and agreed to by you before further consideration may be given to your application for financial assistance from Rural Development for _____. The Rural Development mission area staff administers this financial assistance on behalf of the Rural Housing Service (RHS). Any changes in project cost, source of funds, scope of services, or any other significant changes in the project or applicant must be reported to and approved by Rural Development by written amendment to this letter. Any changes not approved by Rural Development shall be cause for discontinuing processing of the application.

This letter is not to be considered as loan (and grant) approval or as a representation as to the availability of funds. The docket may be completed on the basis of a Rural Development loan not to exceed \$_____, a Rural Development grant not to exceed \$_____, and other funding in the amount of \$_____, for a total project cost of \$_____. The other funding is planned in the form of _____ from _____.

If Rural Development makes the loan, you may make a written request that the interest rate be the lower of the rate in effect at the time of loan approval or the time of loan closing. If you do not request the lower of the two interest rates, the interest rate charged at closing will be the rate in effect at the time of loan approval. The loan will be considered approved on the date a signed copy of Form RD 1940-1, Request for Obligation of Funds, is mailed to you. If you want the lower of the two rates, your written request should be submitted to Rural Development as soon as practical. In order to avoid possible delays in loan closing such a request should ordinarily be submitted at least 30 calendar days before loan closing.

All regulations, forms, and bulletins outlined in this letter can be obtained from our web site at <http://rdinit.usda.gov/regs/> (click on "Instructions" or "Forms," as appropriate, in the upper left-hand corner). From this web site, you must review RD Instruction 1942-A, Sections 1942.17, 1942.18, and 1942.19 (and RD Instruction 3570-B). You must also review RD Instruction 1942-C and RD Instruction 1940-Q and all exhibits. If you do not have internet access, we will provide the appropriate documents. Any regulation, form, or bulletin identified in this letter as a Virginia form will be provided to you at the appropriate time.

Extra copies of this letter are being provided for use by your engineer/architect, attorney, bond counsel, and accountant. These representatives must also review the appropriate subparts of RD Instruction 1942-A.

Attached are the following:

- Attachment No. 1 - Project Planning Factors
- Attachment No. 2 - Virginia Instruction 1942-A, Guide 1, with attachments, and Virginia Instruction 1942-C, Guides 1, 2, and 3

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Attachment No. 3 - Form RD 1942-46, Letter of Intent to Meet Conditions

The conditions referred to in the first paragraph of this letter are as follows:

1. Loan Repayment - The loan will be scheduled for repayment over a period of ____ years. The payment due the first anniversary (and second anniversaries) will be interest only. Payments for the remaining ____ months will be equal amortized monthly installments. For planning purposes use a _____ interest rate and a monthly amortization factor of _____, which provides for a monthly payment of \$_____.

A debt service reserve is required and must be accumulated at the rate of 10% of the monthly debt payment until a sum equal to no less than one annual installment is accumulated.

You will be required to participate in the Preauthorized Debit (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due.

1. Loan Repayment - The loan will be scheduled for repayment over a period of ____ years. The payment due the first anniversary (and second anniversaries) will be interest only. Payments for the remaining ____ years will be equally amortized annual installments. For planning purposes, use a _____ interest rate and an annual amortization factor of _____, which provides for an annual payment of \$_____.

A debt service reserve is required and must be accumulated at the rate of 10% of the annual debt payments until a sum equal to no less than one annual installment is accumulated.

You will be required to participate in the Preauthorized Debit (PAD) payment process. It will allow for your payment to be electronically debited from your account on the day your payment is due.

2. Security - The loan must be secured by a General Obligation Bond which pledges the full faith and credit of the issuer and other agreements between you and Rural Development as set forth in the Bond Resolution, which must be properly adopted and executed by the appropriate officials of your organization. Additional security requirements are contained in Form RD 1942-47 (and Form RD 3570-3).
2. Security - The loan must be secured by a Promissory Note, Deed of Trust having first priority, a financing statement on all accounts and general intangibles of the _____ [and all (equipment) (and fixtures) financed with these loan (and grant) funds], a Security Agreement using Virginia Form RD 440-4, and other agreements between you and Rural Development as set forth in Form RD 1942-9, Association Loan Resolution, (and Form RD 3570-3, Agreement for Administrative Requirements for Community Facility Grants) which must be adopted and executed by the appropriate applicant officials. Prior to the adoption of the Association Loan Resolution, the members of the Association, at a properly called meeting, must review and adopt Form RD 1942-8, Resolution of Members or Stockholders.

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You must provide for us a description of the equipment. The description where possible must include the year, make, model, and serial number.

You must provide us with an "as-developed" real estate appraisal, performed by a qualified licensed appraiser, that shows the value of the property serving as security for the loan is equal to, or greater than, the proposed loan(s).

Your attorney must provide us with a description of the real property, including a plat, which will be included in the Deed of Trust, and a title insurance binder.

3. Bond Counsel - The services of a recognized bond counsel are required. The bond counsel will prepare the form of Resolution to be used, in accordance with RD Instruction 1942-A, Section 1942.19. You should immediately provide your bond counsel with a copy of this letter of conditions.
3. Legal Counsel - The services of an attorney are required. Legal counsel will advise, certify, issue opinions, title or otherwise, and record debt instruments that are required to satisfy the loan conditions.
4. Legal Services Agreement - [The agreement you provided with your application for legal services has been found acceptable.] [You must provide an agreement for legal services for our review.] The cost for this service has been included in the project budget contained in Attachment No. 1.
5. Organizational Documents - (We have) (Our Office of General Counsel has) reviewed the documents creating your _____ and (have found them acceptable) (the following changes are necessary).
6. Facility Control - Prior to advertisement for construction bids, you must furnish satisfactory evidence that you have or can obtain adequate continuous and valid control over the lands needed for the project. Such evidence must be in the following form:
 - a. A right-of-way map showing clearly the location of all lands and rights needed for the project. The map must designate public and private lands and rights and the appropriate legal ownership thereof.
 - b. Copies of deeds, contracts, or options for any lands needed other than rights-of-way, along with a preliminary title opinion covering such lands. Form RD 1927-9, Preliminary Title Opinion, may be used. Also in the case of existing facilities where you have already acquired real property (land or facilities), a preliminary title opinion must be provided.
 - b. Copies of deeds, contracts, leases, or options for any real estate needed along with a title insurance binder for same. In cases of existing facilities, this will also include previously acquired rights. The binder will be in the amount of the proposed loan and name the United States of America, acting through the Rural Housing Service, an agency of the United States Department of Agriculture, as the proposed insured.

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- c. Immediately after closing, a final title opinion showing no exceptions must be provided.
- c. Immediately after closing, the applicant must furnish an acceptable title insurance policy endorsed in the favor of the United States of America, Acting through the United States Department of Agriculture. The policy must be in the amount of the proposed loan and all listed exceptions must be reviewed and accepted by Rural Development.
- d. A copy of the right-of-way easements for any rights-of-way needed on private lands. Form RD 442-20, Right-of-Way Easement, may be used. Each easement need not be provided this office; however, each must be available for Rural Development review. A copy of the easement to be used must be approved by Rural Development.
- e. Form RD 442-21, Right-of-Way Certificate, and Form RD 442-22, Opinion of Counsel Relative to Rights-of-Way, must be completed. These forms may contain a few exceptions such as properties that must be condemned; however, prior to start of construction or loan closing, whichever occurs first, new Forms RD 442-21 and 442-22, which do not provide for any exceptions, must be provided.

If rights-of-way are not needed for the proposed project, a certification to that effect from your attorney will satisfy items a, d, and e above.

7. Permits - Copies of all permits needed for the project or a statement of permit availability from the permit issuer must be provided for our review prior to advertisement or soliciting for construction bids. Such permits may include but are not limited to the following:

- Zoning Code Permits
- Building Code Permits (including erosion and sedimentation control plans)
- Virginia Department of Highways and Transportation
- Railroads
- Local Department of Health
- State Water Control Board
- Corps of Engineers
- State Corporation Commission
- State Air Pollution Control Board
- Marine Resources Commission

In addition, you need to provide a narrative opinion from your attorney which identifies and addresses the need and adequacy of all certificates, permits, licenses, etc., needed for the construction and operation of the facility.

8. Accounting - You must enter into an audit agreement with a qualified accountant. You must obtain from your accountant the following:
 - a. Prior to advertisement for bids, your accountant must state in writing that he will establish your accounts and records in accordance with the requirements of the (Loan Agreement) (Resolution) (Ordinance), and the requirements of

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the State Corporation Commission, if applicable, within 20 days from the notice to do such.

- b. Prior to loan closing or the start of construction, whichever occurs first, the accountant must certify that the accounts and records as required in (a) above have been established and are operational.

A Rural Development representative may want to review your accounts and records.

8. Accounting - You must maintain an audit agreement with a qualified accountant. You must obtain from your accountant a certification that the records and accounts required by your previous USDA financing have been established and are operational.

A Rural Development representative may want to review your accounts and records.

9. Audit Requirements - Audited financial statements shall be submitted on an annual basis in accordance with the Government Auditing Standards (GAAS), General Accepted Accounting Principles (GAAP), and the Generally Accepted Government Auditing Standards (GAGAS) issued by the Comptroller General of the United States, 1994 revision, and any subsequent revisions.

Audits performed in accordance with OMB Circular A-133, "Audits of States, Local Governments, and Non-profit Organizations," are based upon the amount of Federal financial assistance expended during a borrower's fiscal year from a Federal source. **Borrowers expending Federal financial assistance over \$500,000 are required to have an OMB Circular A-133 audit. Borrowers expending less than \$500,000 in Federal financial assistance are required to submit financial statements, either GAAS, GAGAS, or management reports, based upon loan balances and prevailing Federal regulations.**

In addition to the audit required above, RD Instruction 1942-A outlines management reports which must be submitted to Rural Development. As soon as the facility is operational, you will be required to provide these reports.

10. Insurance and Bonding Requirements - Prior to loan closing or start of construction, whichever occurs first, you must acquire the following insurance and bond coverage:
 - a. Public Liability, Property Damage, and Comprehensive - Coverage on trucks, tractors, and other vehicles driven on public highways. The insurance must be in effect at the time of loan closing or start of construction, whichever occurs first. The amount of coverage will be determined by the Borrower in conjunction with their attorney and a representative of Rural Development.
 - b. Workers' Compensation - In accordance with appropriate State Laws.
 - c. Position Fidelity Bond Coverage - You must provide evidence of adequate fidelity bond coverage for all persons who have access to funds by loan

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closing or start of construction, whichever occurs first. Coverage may be provided either for all individual positions or persons, or through "blanket" coverage providing protection for all appropriate employees and/or officials. The amount of coverage will normally approximate the total annual debt service requirements for your Rural Development loan(s). Form RD 440-24, Position Fidelity Schedule Bond, may be used for this purpose. We encourage you to have your attorney, consulting engineer/architect, and/or insurance provider review proposed types and amounts of coverage, including any deductible provisions. Rural Development must agree on the acceptability of proposed coverage. You must continue to provide evidence to Rural Development that adequate coverage is being maintained for the life of the loan. This is your responsibility, not that of Rural Development.

- d. National Flood Insurance - In addition to meeting the requirements for the type of assistance requested, the following requirements must be met for financial assistance for acquisition and/or construction in designated special flood or mudslide prone areas:
 1. If flood insurance is available, you must purchase a flood insurance policy at the time of loan closing.
 2. Applicants whose buildings, machinery, or equipment are to be located in an area which has been notified as having special flood or mudslide prone areas will not receive financial assistance where flood insurance is not available.
 - e. Property Insurance - Before loan closing, you must purchase property insurance in the amount of the initial contract sum, as well as subsequent modifications thereto, for the entire work at the site on a replacement cost basis without voluntary deductibles. Such property insurance shall be maintained until final acceptance of the work. This insurance shall include interests of the owner, the contractor, sub-contractors and sub-subcontractors in the work. Property insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, false-work, temporary buildings, and debris removal, including demolition occasioned by enforcement of any applicable legal requirements. The policy shall cover reasonable compensation for architect's or engineer's services and expenses required as a result of such insured loss.
 - f. Real Property Insurance - Prior to the acceptance of the facility from the contractor(s), you must obtain real property insurance (fire and extended coverage) on all above ground structures to include machinery and equipment housed therein, in an amount equal to the insurable value thereof.
11. Agreement for Engineering/Architectural Services - [The agreement you provided with your application for engineering/architectural services has been found acceptable.] [You must provide an agreement for engineering/architectural services for our review.] The cost for this service has been included in the project budget contained in Attachment No. 1.
 12. Procurement - You may use competitive negotiation for the construction of your facility. Your engineer/architect must develop the plans and specifications and a

request for proposal. Prior to soliciting for offers, Rural Development must review and approve the request for proposal (RFP) and plans and specifications.

12. Procurement - You may proceed to acquire the proposed vehicles and/or equipment by competitive negotiation. You must develop a Request for Proposal (RFP) and specifications. Rural Development must review and give prior approval to the specifications and RFP before soliciting for offers.

Following the receipt of offers, Rural Development must be provided with the following:

- a. Summary of all offers
- b. Copy of the successful offer
- c. Narrative summary of all negotiations
- d. Copy of notice to all unsuccessful offerors
- e. Copy of resolution of tentative award

13. Contract Documents (Equipment and Buildings Under \$100,000)

- a. Request for proposal (RFP)
- b. Plans
- c. Specifications
- d. VA Instruction 1942-A, Guide 2, Construction Contract; or
- d. Other contract covering the purchase of equipment

The following information and records must be established and maintained:

1. Copy of successful offer
 2. Summary of all offers and a narrative summary of all negotiations
 3. Revised project budget based on successful offer
 4. Engineer/Architect recommendation of award
 5. Resolution (owner's) of tentative award
 6. Notice to unsuccessful offeror(s)
12. Procurement - You are required to competitively bid the proposed project. Your architect/engineer must develop the contract documents in accordance with the requirements of Item 13.
13. Contract Documents (Buildings over \$100,000) - Prior to the approval of plans and specifications, you must submit the following items to Rural Development for review and approval: Construction contract documents prepared in accordance with RD Instruction 1942-A, Guide 27, as supplemented by Virginia Instruction 1942-A, Guide 1, as well as final plans, specifications, and all addenda.
14. Code of conduct - Owners shall adopt and maintain a written code or standards of conduct which shall govern the performance of their officers, employees, or agents engaged in the award and administration of contracts supported by Rural Development funds. No employee, officer, or agent of the owner shall participate in the selection, award, or administration of a contract supported by Rural Development funds if a conflict of interest, real or apparent, would be involved.

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15. Interim Financing - Interim financing must be used for the Rural Development loan, provided such funds can be borrowed at reasonable rates and terms. You must provide Rural Development with a copy of the tentative agreement reached in connection with interim financing.
16. Other Funds - Prior to advertisement or soliciting for construction bids, you must provide evidence showing the availability of the other funds.
17. Disbursement of Rural Development Grant Funds – Rural Development grant funds will be advanced as they are needed in the amount necessary to cover Rural Development’s proportionate share of obligations due and payable by the _____ (insert applicant's name). Interest earned on grant funds in excess of \$_____ (insert \$250 for non-profit applicants **OR** \$100 for public body applicants) per year will be submitted to Rural Development at least quarterly as required in _____ (insert 7 CFR 3019 for non-profit applicants **OR** 7 CFR 3016 for public body applicants).
18. Community Facilities Grant (CFG) - You will be required to execute Form RD 3570-3, Agreement for Administrative Requirements for Community Facility Grants, at the time of grant closing.

CFG assistance is subject to the interest of the United States Government in the market value of the property attributable to the Federal participation in this project provided by 7 CFR, parts 3015, 2016, or 3019 et seq as subsequently modified.

CFG assistance is subject to the provisions of Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973 and the regulations issued thereto. This covenant is in effect for as long as the property continues to be used for the same or similar purpose for which the financial assistance was extended or for as long as the grantee owns it, whichever is longer.

19. Agency Forms - You will be required to execute certain Agency forms in order to obtain financial assistance from Rural Development. By Resolution, these forms must be adopted and properly executed, and minutes showing the adoption must be provided.
20. Environmental Mitigation - As a result of the environmental review performed for this project, the following mitigation requirements must be accomplished:
 - a.

Under Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from Rural Development.

As a recipient of Federal financial assistance, you must be in compliance, and continue to comply, with Title VI of the Civil Rights Act of 1964 and the Rural Development regulations promulgated by this Act. Your signature on Form RD 400-4, Assurance Agreement, is your commitment to comply with these Federal laws and regulations, as well as your agreement to maintain records and data to verify your compliance. The

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data you must provide depends on the type of project financed with Rural Development funds, and guidance will be provided to you by Rural Development. Your compliance is monitored through compliance reviews conducted by Agency personnel. The first compliance review will be conducted (prior to, or concurrent with, loan closing) (one year from the date of loan closing), with subsequent compliance reviews conducted every three years.

Rural Development may authorize you to advertise the project for construction bids once all required documents have been submitted. Such advertisement must be in accordance with appropriate State statutes. Immediately after bid opening, you must provide Rural Development with (a) a bid tabulation, (b) recommendations from you and your engineer/architect as to the acceptability of the bids received, (c) your recommendations for contract awards, and (d) a revised project budget based upon current prices.

If all parties then agree the construction bids received are acceptable and it is determined that adequate funds are available to cover the total facility costs and that all the administrative conditions of loan approval have been satisfied, loan closing instructions will be issued. The closing instructions, a copy of which will be forwarded to you, will set forth any further requirements that must be met before the loan can be closed. **LOAN CLOSING WILL NOT SCHEDULED UNTIL CLOSING INSTRUCTIONS ARE RECEIVED FROM RURAL DEVELOPMENT.** When all parties agree that the closing requirements can be met, a mutually acceptable date for the loan closing will be scheduled.

The Debt Collection Improvement Act (DCIA) of 1996 requires that all Federal payments be made by Electronic Funds Transfer/Automated Clearing House (EFT/ACH). Borrowers receiving payments by EFT will have funds directly deposited to a specified account at a financial institution with funds being available to the recipient on the date of payment. The borrower should complete Form SF-3881, Electronic Funds Transfer Payment Enrollment Form, for each account where funds will be electronically received. The completed form(s) must be received by Rural Development at least thirty (30) days prior to the first advance of funds.

As a recipient of federal financial assistance, you must comply with all applicable federal, state, and local statutes, ordinances, regulations, and codes. The major portion of existing Rural Development rules and regulations which must be met are included in RD Instruction 1942-A and 1942-C [and RD Instruction 3570-B]. No modifications or waiver of any portion of these regulations is authorized. Such regulations shall govern regardless of any misinterpretation, omission, misunderstanding, or statements made by any Rural Development employee. The most critical requirements of the instructions have been highlighted or clarified in this letter.

In addition, you will be required to refinance the unpaid balance of the proposed loan, in whole or in part, upon the request of the government if at any time it shall appear to the government that you are able to refinance its obligation by obtaining a loan for such purposes from responsible lending sources at reasonable rates and terms for loans for similar purposes and periods of time.

The applicant contribution shall be considered as first funds expended except _____ (insert appropriate exceptions if funds from other sources make an exception necessary). After providing for all authorized cost, any remaining

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Rural Development funds will be considered to be Rural Development grant funds and refunded to Rural Development. If the amount of unused funds exceeds the Rural Development grant, then that part would be Rural Development loan funds.

We believe the information herein clearly sets forth the action which must be taken; however, if you have any questions, please do not hesitate to contact my office.

Please complete and return the attached Form RD 1942-46, Letter of Intent to Meet Conditions, if you desire further consideration be given your application.

If the conditions set forth in this letter are not met within ___ months from the date hereof, Rural Development reserves the right to discontinue processing of the application.

Sincerely yours,

Area Director
USDA, Rural Development

cc: Administrator, Washington, D.C.
State Director, Rural Development, Richmond, VA
Attorney
Bond Counsel
Accountant
Engineer/Architect

Attachment No. 1
Letter of Conditions
For: _____
Dated: _____

PROJECT PLANNING FACTORS

The following estimates are to be used as a basis for project planning and must not be changed without prior approval of Rural Development:

PROJECT COSTS

Construction	\$ _____
Contingency	_____
Equipment	_____
Legal Fees	_____
Title Insurance	_____
Technical Fees:	
Architectural:	
Basic	_____
Additional	_____
Engineering:	
Basic	_____
Additional	_____
Inspection	_____
Interest	_____
Other	_____
 TOTAL	 \$ _____

FUNDING

Rural Development Loan	\$ _____
Rural Development Grant	_____
Other	_____
Borrower Contribution	_____
 TOTAL	 \$ _____

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OPERATING BUDGET - TYPICAL YEAR

INCOME

Operating Income	\$ _____	
Non-operating Income	_____	
Other	_____	
TOTAL INCOME	\$ _____	\$ _____

EXPENSES

Administrative Expenses	\$ _____	
Insurance	_____	
Taxes	_____	
Operating Expenses	_____	
Operation and Maintenance	_____	
Debt Service	_____	
Debt Reserve	_____	
Other	_____	
TOTAL EXPENSES	\$ _____	_____

BALANCE		\$ _____
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FOR ALL FINANCING STATEMENTS FILED WITH THE STATE CORPORATION COMMISSION AND THE COUNTY, USE THE FOLLOWING STATEMENT AS A DESCRIPTION:

All accounts, equipment, fixtures, and general intangibles.

Do **not** add any other description, listing, or language. Do **not** delete any part of the statement, even though it may not apply.

**PROCUREMENT BY COMPETITIVE NEGOTIATION, NONCOMPETITIVE
NEGOTIATION, AND SMALL PURCHASE METHODS**

Competitive Negotiation

Competitive negotiation allows a supplier to be considered on a basis of numerous qualifications, not solely on price. It also allows for negotiation and bargaining in the procurement of items. In the procuring of items by competitive negotiation, the following procedures should be followed and well documented.

1. A request for proposal (RFP), which includes specifications, along with the specific requirements upon which the proposal is to be evaluated must be developed. The proposal can be evaluated with regards to price; compatibility with existing equipment; quality; repair records; and/or location of supplier or repairer, just to name a few. However, the qualifications should not be designed to arbitrarily prohibit competition.
2. The RFP should be published and sent to a number of sources to permit reasonable competition.
3. All proposals received by the entity should be documented as to date and time received and a description of the proposal. Subsequent negotiations should also be documented.
4. The choice of proposal is then made. This is done in accordance with the requirements listed in the RFP and the selected proposal's conformance to these requirements must be demonstrated. In the proposal package which is sent to the State Office, include a letter from the entity which states the proposals received; summarizes any subsequent negotiations; and outlines the proposal chosen along with the reason for choosing this proposal. This letter should accompany a copy of the chosen proposal. Unsuccessful offerors should be promptly notified.

Noncompetitive Negotiation

Noncompetitive negotiation involves the procurement of an item from a single source. To noncompetitively negotiate a construction or material purchase contract, one of the following conditions must be met:

1. The item is available from only one source; or
2. There exists a public exigency or emergency and the urgency for the requirement will not permit a delay incident to competitive solicitation; or
3. After solicitation of a number of sources, competition is determined inadequate; or
4. No acceptable bids have been received after formal advertising; or

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5. The aggregate price of the work does not exceed \$50,000.

One of these conditions has to be clearly demonstrated and documented. This documentation should be sent to the State Office for prior approval of the noncompetitive negotiation process.

If the noncompetitive negotiation is approved, all discussions between the owner and contractor should be documented as pertaining to date, parties present, and items of discussion or agreement. Any changes to the plans and specifications and contract documents must also be documented. When the negotiations are finalized, a package of this documentation should be sent to the State Office.

Small Purchase

Small purchase procurement is a less formalized procurement method for items costing less than \$10,000. Although it is less formalized, small purchase procurement does require competition and complete documentation of any procurement efforts made. For simple items, a general description of the item to be procured is required. With more complex items, plans and specifications may be required. Additional small purchase procurement steps are as follows:

1. If possible, at least three suppliers or contractors should be contacted. This contact can be by phone conversation, personal visit, or letter. Contacts should be documented as to the individual contacted, date contact made, and the price quote received.
2. A decision regarding the supplier or contractor to be used needs to be made. This decision can be based on price, quality of product, or service or compatibility with present items. The basis for this decision should also be recorded.
3. The owner should compile the documentation required and summarize the needed information in a letter to the Area Office. This information should be sent to the State Office for approval.

General Information

The documentation listed above as required to document the three procurement methods should accompany those items normally required in the bid package. These items would include a bid bond (if necessary); revised project budget; recommendation of award by architect or engineer (if applicable); and resolution by owner of tentative award subject to our approval.

REQUEST FOR PROPOSALS

TO: _____

The _____ Fire Department is planning to purchase a new _____ . We are planning to finance this _____ through the United States Department of Agriculture, Rural Development. As a requirement for this financing, we will be procuring the _____ through competitive negotiation.

The specifications for the equipment requested in this proposal will meet or exceed those listed in NFPA-1901.

New equipment must be accompanied by appropriate test results and certifications from the manufacturer. For any used equipment, the purchaser may test and inspect the equipment before it makes a final proposal decision.

We invite you to offer a proposal for furnishing a _____ of this type to the Fire Department. Attached you will find a set of basic specifications which are intended to establish the minimum level of capacity; construction; quality; operational requirements; etc., for the _____ we will purchase. If you submit a proposal, the specifications on your _____ must equal or exceed these basic specifications. Please feel free to offer equal or better alternates and options if you so desire. The Fire Department will make a final selection based on the proposal which best meets the specifications and our needs, price and other factors considered. We are not limited, unless otherwise noted, to making our selection based only on the lowest-priced proposal. A range of factors, as noted below, will be considered in making the final selection. A weight of 1 to 4 has been assigned to each factor, denoting its relative importance in the final selection. Please review these criteria carefully and include information in your proposal as appropriate. The Fire Department does reserve the right to ask for revised proposals from any or all companies submitting proposals if major revisions in the basic specifications become mandatory.

Evaluation Criteria and Relative Importance

Value System 1 to 4: 1 = Most important
(No more than three criteria shall be rated 1; two or more criteria must be rated 2 or 3)

1. Price of unit offered _____
2. Location of nearest factory authorized service in relation to Fire Department _____
3. Warranty plan offered _____

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4. Compatibility with existing equipment _____
5. References from previous clients _____
6. Operational convenience and efficiency _____
7. Delivery to Fire Department by (date) _____
8. Specifications on equipment offered exceed minimum specification requirements

9. Other (write in) _____

An additional requirement of our loan is that we must maintain open and free competition in the negotiation process. It is our intention to fully consider and evaluate fairly each proposal submitted. Our selection process will be reviewed and concurred in by Rural Development. You should supply a complete set of specifications for the unit on which your proposal is based with proposed options and alternates properly identified and priced.

We hope to make a final selection on or about _____. Therefore, we must receive your proposal by _____ in order for it to be considered. If there are any changes to these dates, you will be notified of the Fire Department's decision on your proposal.

Thank you for your consideration, and we look forward to hearing from you. If you should have further questions, the contact person(s) for the Fire Department is (are) as follows:

Phone: _____

Phone: _____

REQUEST FOR PROPOSALS

Proposals for (briefly describe nature, scope, and major elements of work)

will be received by _____ at the office of _____ until _____ (Standard Time - Daylight Savings Time) _____, 20___. This project is being financed through the United States Department of Agriculture, Rural Development, and will be procured through competitive negotiation.

The proposals will be evaluated with regards to the criteria that are outlined in the specifications that follow. After the initial evaluation of these proposals, the owner will choose the _____ proposals which best meet these criteria. The owner is then free to negotiate with originators of these proposals and upon resolution of these negotiations, choose the negotiated proposal that most closely meets or exceeds the specifications. Each proposal must be accompanied by a bid bond payable to the owner for five percent of the total amount of the proposal. Insurance and any additional bonding requirements, if any, will be listed in the specifications and/or conditions of the contract.

If design services are to be included as part of this contract, they must be accomplished by an architect or engineer registered in the Commonwealth of Virginia.

A requirement of our loan is that we must maintain open and free competition in the negotiation process. It is our intention to fully consider and evaluate fairly each proposal submitted. Our selection process will be reviewed and concurred in by Rural Development.

If the proposal exceeds \$10,000, the offeror must submit Form RD 400-6, Compliance Statement, with the proposal. The Equal Opportunity Clause will be a part of all construction contracts exceeding \$10,000.

A copy of these specifications may be examined at the following locations:

Copies of the specifications may be obtained at the office of _____ located at _____ upon payment of \$_____ for each set. Any proposer, upon returning the specifications promptly and in good condition, will be refunded the payment, and any non-proposer will be refunded \$_____.

Should you have any questions, please contact _____ of _____.

SUGGESTED CRITERIA FOR REQUEST FOR PROPOSALS

1. Reference from previous clients
2. Specification on building offered exceeds minimum specification requirements
3. Location of contractor in relation to Department
4. Flexibility of building design
5. Price of building offered
6. Quality of building materials
7. Demonstrated ability to perform contract within specified contract period
8. Warranty plan offered

These are only suggested criteria. None or all of these criteria, or any additional criteria, may be used when developing a request for proposal. In the case where an engineer or architect is developing a request for proposal, they will also be responsible for development of criteria.